DOCUMENT RESUME

ED 440 155 UD 033 284

TITLE	Juvenile Justice: A Century of Change. 1999 National Report Series. Juvenile Justice Bulletin.
INSTITUTION	Department of Justice, Washington, DC. Office of Juvenile Justice and Delinquency Prevention.
REPORT NO	NCJ-178995
PUB DATE	1999-12-00
NOTE	21p.; Information in this bulletin is taken from chapter 4 of "Juvenile Offenders and Victims: 1999 National Report"; see ED 435 888.
AVAILABLE FROM	Juvenile Justice Clearinghouse, P.O. Box 6000, Rockville, MD 20849-6000. Tel: 800-638-8736 (Toll Free); e-mail: puborder@jcjrs.org. For full text: http://www.ojjdp.ncjrs.org./pddffiles1/ojjdp/178995.pdf.
PUB TYPE	Numerical/Quantitative Data (110) -- Reports - Descriptive (141)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Adolescents; Court Litigation; Criminal Law; Delinquency; Federal Legislation; *Juvenile Justice; Rehabilitation; State Legislation; Violence
IDENTIFIERS	Criminal Justice System; *Juvenile Crime; Juvenile Justice Delinquency Prevention Act 1974; Supreme Court

ABSTRACT

This report describes the development of the juvenile justice system in the United States. It uses current data to look at where it is heading, and the recent trend of transferring certain juvenile cases to adult criminal court. Section 1 explains that the juvenile justice system was founded on the concept of rehabilitation through individualized justice. Section 2 explains that U.S. Supreme Court cases have had an impact on the character and procedures of the juvenile justice system. Sample cases are presented. Section 3 discusses how state statutes define who is under the jurisdiction of juvenile court. Section 4 notes that the juvenile justice system differs from the criminal justice system, but there is common ground. Section 5 explains that all states allow juveniles to be tried as adults in criminal court under certain circumstances. Section 6 notes that new laws have had a dramatic impact on sentencing for serious or violent juvenile offenders. (References can be found in the larger report.) (SM)

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DECEMBER 1999

1999 NATIONAL REPORT SERIES

Juvenile Justice Bulletin

Juvenile Justice: A Century of Change

As the Nation moves into the 21st century, the reduction of juvenile crime, violence, and victimization constitutes one of the most crucial challenges of the new millennium. To meet that challenge, reliable information is essential. Juvenile Offenders and Victims: 1999 National Report *offers a comprehensive overview of these pervasive problems and the response of the juvenile justice system. The* National Report *brings together statistics from a variety of sources on a wide array of topics, presenting the information in clear, nontechnical text enhanced by more than 350 easy-to-read tables, graphs, and maps.*

This Bulletin series is designed to give readers quick, focused access to some of the most critical findings from the wealth of data in the National Report. *Each Bulletin in the series highlights selected themes at the forefront of juvenile justice policymaking and extracts relevant* National Report *sections (including selected graphs and tables).*

Administrator's Message

In 1899, when the first proceeding of a juvenile court convened in Chicago, it is unlikely that those in the courtroom were aware of the momentous impact of their actions. Yet, that beginning provided the foundation for how our Nation deals with juvenile offenders. A century ago, the focus of the juvenile justice system was on the juvenile offender—rather than the offense—and that remains largely true today. The juvenile court system is based on the principle that youth are developmentally different from adults and more amenable to intervention. At its best, the juvenile court balances rehabilitation and treatment with appropriate sanctions—including incarceration, when necessary.

The Illinois statute also gave the court jurisdiction over dependent, neglected, and delinquent children. This understanding of the link between child victimization, family disorder, and the potential for child victims to become offenders without early and effective intervention continues to be an important part of the juvenile court philosophy.

This Bulletin provides a thorough, easily understood description of the development of the juvenile justice system in the United States. It also uses the most current data available to look at where we are headed, and it examines the recent trend of transferring certain juvenile cases to adult criminal court.

Contrary to what some people believe, today's U.S. juvenile justice system is not an "easy out" that gives a meaningless slap on the wrist to violent youth. Nor is it a breeding ground for gangs, drugs, and adult crime. Instead, the juvenile justice system provides youthful offenders and their victims with a comprehensive, yet balanced approach to justice. Probation, treatment, and restitution are widely used. For most juveniles who enter the system, this approach works: 54 percent of males and 73 percent of females never return to juvenile court on a new referral.

Certainly, there are areas in the juvenile justice system that need improvement. For example, the system needs to prepare to handle more female offenders and offenders under the age of 13, two groups whose numbers are increasing. Still, the roots of the juvenile justice system remain strong and need to be supported by all those committed to improving the lives of our children. At OJJDP, we intend to continue our efforts to strengthen the juvenile justice system and achieve the goals for which the juvenile court was first established.

Shay Bilchik
Administrator

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The juvenile justice system was founded on the concept of rehabilitation through individualized justice

Early in U.S. history, children who broke the law were treated the same as adult criminals

Throughout the late 18th century, "infants" below the age of reason (traditionally age 7) were presumed to be incapable of criminal intent and were, therefore, exempt from prosecution and punishment. Children as young as 7, however, could stand trial in criminal court for offenses committed and, if found guilty, could be sentenced to prison or even to death.

The 19th-century movement that led to the establishment of the juvenile court in the U.S. had its roots in 16th-century European educational reform movements. These earlier reform movements changed the perception of children from one of miniature adults to one of persons with less than fully developed moral and cognitive capacities.

As early as 1825, the Society for the Prevention of Juvenile Delinquency was advocating the separation of juvenile and adult offenders. Soon, facilities exclusively for juveniles were established in most major cities. By mid-century, these privately operated youth "prisons" were under criticism for various abuses. Many States then took on the responsibility of operating juvenile facilities.

The first juvenile court in this country was established in Cook County, Illinois, in 1899

Illinois passed the Juvenile Court Act of 1899, which established the Nation's first juvenile court. The British doctrine of *parens patriae* (the State as parent) was the rationale for the right of the State to intervene in the lives of children in a manner different from the way it intervenes in the lives of adults. The doctrine was interpreted to mean that, because children were not of full legal capacity, the State had the inherent power and responsibility to provide protection for children whose natural parents were not providing appropriate care or supervision. A key element was the focus on the welfare of the child. Thus, the delinquent child was also seen as in need of the court's benevolent intervention.

Juvenile courts flourished for the first half of the 20th century

By 1910, 32 States had established juvenile courts and/or probation services. By 1925, all but two States had followed suit. Rather than merely punishing delinquents for their crimes, juvenile courts sought to turn delinquents into productive citizens—through treatment.

The mission to help children in trouble was stated clearly in the laws that established juvenile courts. This benevolent mission led to procedural and substantive differences between the juvenile and criminal justice systems.

During the next 50 years, most juvenile courts had exclusive original jurisdiction over all youth under age 18 who were charged with violating criminal laws. Only if the juvenile court waived its jurisdiction in a case could a child be transferred to criminal court and tried as an adult. Transfer decisions were made on a case-by-case basis using a "best interests of the child and public" standard, and were thus within the realm of individualized justice.

The focus on offenders and not offenses, on rehabilitation and not punishment, had substantial procedural impact

Unlike the criminal justice system, where district attorneys select cases for trial, the juvenile court controlled its own intake. And unlike criminal prosecutors, juvenile court intake considered extra-legal as well as legal factors in deciding how to handle cases. Juvenile court intake also had discretion to handle cases informally, bypassing judicial action.

John Augustus—planting the seeds of juvenile probation (1847)

"I bailed nineteen boys, from 7 to 15 years of age, and in bailing them it was understood, and agreed by the court, that their cases should be continued from term to term for several months, as a season of probation; thus each month at the calling of the docket, I would appear in court, make my report, and thus the cases would pass on for 5 or 6 months. At the expiration of this term, twelve of the boys were brought into court at one time, and the scene formed a striking and highly pleasing contrast with their appearance when first arraigned. The judge expressed much pleasure as well as surprise at their appearance, and remarked, that the object of law had been accomplished and expressed his cordial approval of my plan to save and reform."

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Some juvenile codes emphasize prevention and treatment goals, some stress punishment, and others seek a balanced approach

Philosophical goals stated in juvenile code purpose clauses, 1997

Prevention/ diversion/treatment	Punishment	Both prevention/diversion/ treatment and punishment	
Arizona*	Arkansas	Alabama	Nevada
Dist. of Columbia	Georgia	Alaska	New Hampshire
Kentucky	Hawaii	California	New Jersey
Massachusetts	Illinois	Colorado	New Mexico
North Carolina	Iowa	Connecticut	New York
Ohio	Louisiana	Delaware	North Dakota
South Carolina	Michigan	Florida	Oklahoma
Vermont	Missouri	Idaho	Oregon
West Virginia	Rhode Island	Indiana	Pennsylvania
		Kansas	Tennessee
		Maryland	Texas
		Maine	Utah
		Minnesota	Virginia
		Mississippi	Washington
		Montana	Wisconsin
		Nebraska	Wyoming

- Most States seek to protect the interests of the child, the family, the community, or some combination of the three.
- In 17 States, the purpose clause incorporates the language of the balanced and restorative justice philosophy, emphasizing offender accountability, public safety, and competency development.
- Purpose clauses also address court issues such as fairness, speedy trials, and even coordination of services. In nearly all States, the code also includes protections of the child's constitutional and statutory rights.

*Arizona's statutes and court rules did not contain a purpose clause; however, the issue is addressed in case law.

Source: Authors' adaptation of Torbet and Szymanski's *State legislative responses to violent juvenile crime: 1996–97 update* [unpublished background research].

In the courtroom, juvenile court hearings were much less formal than criminal court proceedings. In this benevolent court—with the express purpose of protecting children—due process protections afforded criminal defendants were deemed unnecessary. In the early juvenile courts, and even in some to this day, attorneys for the State and the youth are not considered essential to the operation of the system, especially in less serious cases.

A range of dispositional options was available to a judge wanting to help rehabilitate a child. Regardless of offense, outcomes ranging from warnings to probation supervision to training school confinement could be part of the treatment plan. Dispositions were tailored to "the best interests of the child." Treatment lasted until the child was "cured" or became an adult (age 21), whichever came first.

As public confidence in the treatment model waned, due process protections were introduced

In the 1950's and 1960's, many came to question the ability of the juvenile court to succeed in rehabilitating delinquent youth. The treatment techniques available to juvenile justice professionals never reached the desired levels of effectiveness. Although the goal of rehabilitation through individualized justice—the basic philosophy of the juvenile justice system—was not in question, professionals were concerned about the growing number of juveniles institutionalized indefinitely in the name of treatment.

In a series of decisions beginning in the 1960's, the U.S. Supreme Court required that juvenile courts become more formal—more like criminal courts. Formal hearings were now required in waiver situations, and delinquents facing possible confinement were given protection against self-incrimination and rights to receive notice of the charges against them, to present witnesses, to question witnesses, and to have an attorney. Proof "beyond a reasonable doubt" rather than merely "a preponderance of evidence" was now required for an adjudication. The Supreme Court, however, still held that there were enough "differences of substance between the criminal and juvenile courts . . . to hold that a jury is not required in the latter." (See Supreme Court decisions later in this Bulletin.)

Meanwhile Congress, in the Juvenile Delinquency Prevention and Control Act of 1968, recommended that children charged with noncriminal (status) offenses be handled outside the court system. A few years later,

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Congress passed the Juvenile Justice and Delinquency Prevention Act of 1974, which as a condition for State participation in the Formula Grants program required deinstitutionalization of status offenders and nonoffenders as well as the separation of juvenile delinquents from adult offenders. (In the 1980 amendments to the 1974 Act, Congress added a requirement that juveniles be removed from adult jail and lockup facilities.) Community-based programs, diversion, and deinstitutionalization became the banners of juvenile justice policy in the 1970's.

In the 1980's, the pendulum began to swing toward law and order

During the 1980's, the public perceived that serious juvenile crime was increasing and that the system was too lenient with offenders. Although there was substantial misperception regarding increases in juvenile crime, many States responded by passing more punitive laws. Some laws removed certain classes of offenders from the juvenile justice system and handled them as adult criminals in criminal court. Others required the juvenile justice system to be more like the criminal justice system and to treat certain classes of juvenile offenders as criminals but in juvenile court.

As a result, offenders charged with certain offenses are *excluded* from juvenile court jurisdiction or face *mandatory* or *automatic waiver* to criminal court. In some States, concurrent jurisdiction provisions give prosecutors the discretion to file certain juvenile cases directly in criminal court rather than juvenile court. In some States, some adjudicated juvenile offenders face *mandatory sentences*.

The core requirements of the Juvenile Justice and Delinquency Prevention Act primarily address custody issues

The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (the Act) establishes four custody-related requirements:

- The "deinstitutionalization of status offenders and nonoffenders" requirement (1974) specifies that juveniles not charged with acts that would be crimes for adults "shall not be placed in secure detention facilities or secure correctional facilities."
- The "sight and sound separation" requirement (1974) specifies that, "juveniles alleged to be or found to be delinquent and [status offenders and nonoffenders] shall not be detained or confined in any institution in which they have contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges." This requires that juvenile and adult inmates cannot see each other and no conversation between them is possible.
- The "jail and lockup removal" requirement (1980) states that juveniles shall not be detained or confined in adult jails or lockups. There are, however, several exceptions to the jail and lockup removal requirement. Regulations implementing the Act exempt juveniles held in secure adult facilities if the juvenile is being tried as a criminal for a felony or has been convicted as a criminal felon. In addition, there is a 6-hour grace period that allows adult jails and lockups to hold delinquents temporarily until other arrangements can be made. Jails and lockups in rural areas may hold delinquents up to 24 hours under certain conditions. Some jurisdictions have obtained approval for separate juvenile detention centers that are collocated with an adult jail or lockup facility.
- The "disproportionate confinement of minority youth" requirement (1992) specifies that States determine the existence and extent of the problem in their State and demonstrate efforts to reduce it where it exists.

Regulations effective December 10, 1996, modify the Act's requirements in several ways:

- Clarify the sight and sound separation requirement—in nonresidential areas brief, accidental contact is not a reportable violation.
- Permit time-phased use of nonresidential areas for both juveniles and adults in collocated facilities.
- Expand the 6-hour grace period to include 6 hours both before and after court appearances.
- Allow adjudicated delinquents to be transferred to adult institutions once they have reached the State's age of full criminal responsibility, where such transfer is expressly authorized by State law.

The revised regulations offer flexibility to States in carrying out the Act's requirements. States must agree to comply with each requirement to receive Formula Grants funds under the Act's provisions. States must submit plans outlining their strategy for meeting the requirements and other statutory plan requirements. Noncompliance with core requirements results in the loss of 25% of the State's annual Formula Grants program allocation.

As of 1998, 55 of 57 eligible States and territories are participating in the Formula Grants program. Annual State monitoring reports show that the vast majority are in compliance with the requirements, either reporting no violations or meeting *de minimis* or other compliance criteria.

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The 1990's have been a time of unprecedented change as State legislatures crack down on juvenile crime

Five areas of change have emerged as States passed laws designed to crack down on juvenile crime. These laws generally involve expanded eligibility for criminal court processing and adult correctional sanctioning and reduced confidentiality protections for a subset of juvenile offenders. Between 1992 and 1997, all but three States changed laws in one or more of the following areas:

- Transfer provisions—Laws made it easier to transfer juvenile offenders from the juvenile justice system to the criminal justice system (45 States).
- Sentencing authority—Laws gave criminal and juvenile courts expanded sentencing options (31 States).
- Confidentiality—Laws modified or removed traditional juvenile court confidentiality provisions by making records and proceedings more open (47 States).

In addition to these areas, there was change relating to:

- Victims rights—Laws increased the role of victims of juvenile crime in the juvenile justice process (22 States).
- Correctional programming—As a result of new transfer and sentencing laws, adult and juvenile correctional administrators developed new programs.

The 1980's and 1990's have seen significant change in terms of treating more juvenile offenders as criminals. Recently, States have been attempting to strike a balance in their juvenile justice systems among system and offender accountability, offender competency development, and community protection. Juvenile code purpose clauses also incorporate restorative justice language (offenders repair the harm done to victims and communities and accept responsibility for their criminal actions). Many States have added to the purpose clauses of their juvenile codes phrases such as:

- Hold juveniles accountable for criminal behavior.
- Provide effective deterrents.
- Protect the public from criminal activity.
- Balance attention to offenders, victims, and the community.
- Impose punishment consistent with the seriousness of the crime.

From 1992 through 1997, legislatures in 47 States and the District of Columbia enacted laws that made their juvenile justice systems more punitive

State	Changes in law or court rule*		
Alabama	T		C
Alaska	T		C
Arizona	T	S	C
Arkansas	T	S	C
California	T		C
Colorado	T	S	C
Connecticut	T	S	C
Delaware	T	S	C
D. of Columbia	T	S	
Florida	T	S	C
Georgia	T	S	C
Hawaii	T		C
Idaho	T	S	C
Illinois	T	S	C
Indiana	T	S	C
Iowa	T	S	C
Kansas	T	S	C
Kentucky	T	S	C
Louisiana	T	S	C
Maine			C
Maryland	T		C
Massachusetts	T	S	C
Michigan		S	C
Minnesota	T	S	C
Mississippi	T		C
Missouri	T	S	C
Montana	T	S	C
Nebraska			
Nevada	T		C
New Hampshire	T	S	C
New Jersey		S	C
New Mexico	T	S	C
New York			
North Carolina	T		C
North Dakota	T		C
Ohio	T	S	C
Oklahoma	T	S	C
Oregon	T	S	C
Pennsylvania	T		C
Rhode Island	T	S	C
South Carolina	T		C
South Dakota	T		
Tennessee	T	S	C
Texas	T	S	C
Utah	T		C
Vermont			
Virginia	T	S	C
Washington	T		C
West Virginia	T		C
Wisconsin	T	S	C
Wyoming	T		C

*T = Transfer provisions, S = Sentencing authority, C = Confidentiality

Source: Authors' adaptation of Torbet et al.'s *State responses to serious and violent juvenile crime* and Torbet and Szymanski's *State legislative responses to violent juvenile crime: 1996–97 update*.

U.S. Supreme Court cases have had an impact on the character and procedures of the juvenile justice system

The Supreme Court has made its mark on juvenile justice

Issues arising from juvenile delinquency proceedings rarely come before the U.S. Supreme Court. Beginning in the late 1960's, however, the Court decided a series of landmark cases that dramatically changed the character and procedures of the juvenile justice system.

Kent v. *United States* 383 U.S. 541, 86 S.Ct. 1045 (1966)

In 1961, while on probation from an earlier case, Morris Kent, age 16, was charged with rape and robbery. Kent confessed to the offense as well as to several similar incidents. Assuming that the District of Columbia juvenile court would consider waiving jurisdiction to the adult system, Kent's attorney filed a motion requesting a hearing on the issue of jurisdiction.

The juvenile court judge did not rule on this motion filed by Kent's attorney. Instead, he entered a motion stating that the court was waiving jurisdiction after making a "full investigation." The judge did not describe the investigation or the grounds for the waiver. Kent was subsequently found guilty in criminal court on six counts of housebreaking and robbery and sentenced to 30 to 90 years in prison.

Kent's lawyer sought to have the criminal indictment dismissed, arguing that the waiver had been invalid. He also appealed the waiver and filed a writ of habeas corpus asking the State to justify Kent's detention. Appellate courts rejected both the appeal and the writ, refused to scrutinize the judge's "investigation," and accepted the waiver as valid. In appealing to the U.S. Supreme Court, Kent's attorney argued that the judge had not made a complete investigation and that Kent was denied constitutional rights simply because he was a minor.

The Court ruled the waiver invalid, stating that Kent was entitled to a hearing that measured up to "the essentials of due process and fair treatment," that Kent's counsel should have had access to all records involved in the waiver, and that the judge should have provided a *written* statement of the reasons for waiver.

Technically, the *Kent* decision applied only to D.C. courts, but its impact was more widespread. The Court raised a potential constitutional challenge to *parens patriae* as the foundation of the juvenile court. In its past decisions, the Court had interpreted the equal protection clause of the 14th amendment to mean that certain classes of people could receive less due process if a "compensating benefit" came with this lesser protection. In theory, the juvenile court provided less due process but a greater concern for the interests of the juvenile. The Court referred to evidence that this compensating benefit may not exist in reality and that juveniles may receive the "worst of both worlds"—"neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children."

In re Gault 387 U.S. 1, 87 S.Ct. 1428 (1967)

Gerald Gault, age 15, was on probation in Arizona for a minor property offense when, in 1964, he and a friend made a crank telephone call to an adult neighbor, asking her, "Are your cherries ripe today?" and "Do you have big bombers?" Identified by the neighbor, the youth were arrested and detained.

The victim did not appear at the adjudication hearing, and the court never resolved the issue of whether Gault made the "obscene" remarks. Gault was committed to a training school for the period of his minority. The maximum sentence for an adult would have been a $50 fine or 2 months in jail.

An attorney obtained for Gault after the trial filed a writ of habeas corpus that was eventually heard by the U.S. Supreme Court. The issue presented in the case was that Gault's constitutional rights (to notice of charges, counsel, questioning of witnesses, protection against self-incrimination, a transcript of the proceedings, and appellate review) were denied.

The Court ruled that in hearings that could result in commitment to an institution, juveniles have the right to notice and counsel, to question witnesses, and to protection against self-incrimination. The Court did not rule on a juvenile's right to appellate review or transcripts, but encouraged the States to provide those rights.

The Court based its ruling on the fact that Gault was being punished rather than helped by the juvenile court. The Court explicitly rejected the doctrine of *parens patriae* as the founding principle of juvenile justice, describing the concept as murky and of dubious historical relevance. The Court concluded that the handling of Gault's case violated the due process clause of the 14th amendment: "Juvenile court history has again demonstrated that unbridled discretion, however benevolently

motivated, is frequently a poor substitute for principle and procedure."

In re Winship
397 U.S. 358, 90 S.Ct. 1068 (1970)

Samuel Winship, age 12, was charged with stealing $112 from a woman's purse in a store. A store employee claimed to have seen Winship running from the scene just before the woman noticed the money was missing; others in the store stated that the employee was not in a position to see the money being taken.

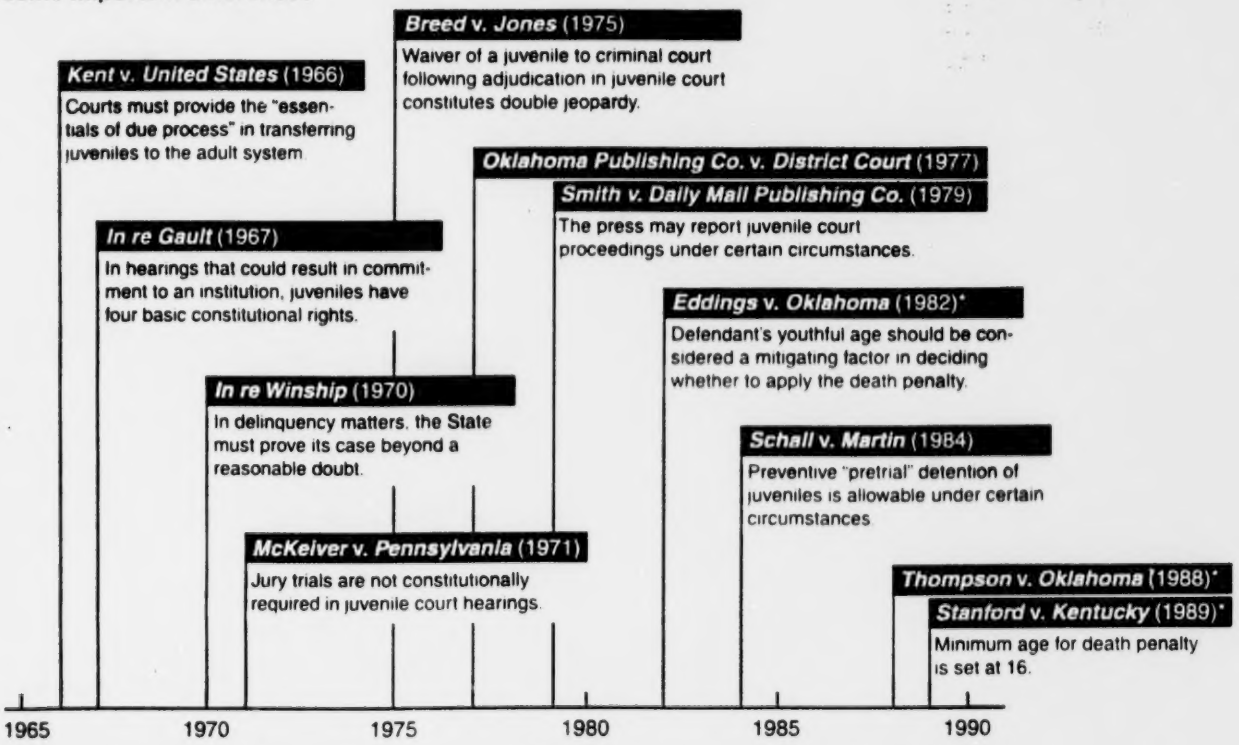
Winship was adjudicated delinquent and committed to a training school. New York juvenile courts operated under the civil court standard of a "preponderance of evidence." The court agreed with Winship's attorney that there was "reasonable doubt" of Winship's guilt, but based its ruling on the "preponderance" of evidence.

Upon appeal to the Supreme Court the central issue in the case was whether "proof beyond a reasonable doubt" should be considered among the "essentials of due process and fair treatment" required during the adjudicatory stage of the juvenile court process. The Court rejected lower court arguments that juvenile courts were not required to operate on the same standards as adult courts because juvenile courts were designed to "save" rather than to "punish" children. The Court ruled that the "reasonable doubt" standard should be required in all delinquency adjudications.

McKeiver v. *Pennsylvania*
403 U.S. 528, 91 S.Ct. 1976 (1971)

Joseph McKeiver, age 16, was charged with robbery, larceny, and receiving stolen goods. He and 20 to 30 other youth allegedly chased 3

A series of U.S. Supreme Court decisions made juvenile courts more like criminal courts but maintained some important differences


Breed v. *Jones* (1975)
Waiver of a juvenile to criminal court following adjudication in juvenile court constitutes double jeopardy.
Kent v. *United States* (1966)
Courts must provide the "essentials of due process" in transferring juveniles to the adult system.
Oklahoma Publishing Co. v. *District Court* (1977)
Smith v. *Daily Mail Publishing Co.* (1979)
The press may report juvenile court proceedings under certain circumstances.
In re Gault (1967)
In hearings that could result in commitment to an institution, juveniles have four basic constitutional rights.
Eddings v. *Oklahoma* (1982)*
Defendant's youthful age should be considered a mitigating factor in deciding whether to apply the death penalty.
In re Winship (1970)
In delinquency matters, the State must prove its case beyond a reasonable doubt.
Schall v. *Martin* (1984)
Preventive "pretrial" detention of juveniles is allowable under certain circumstances.
McKeiver v. *Pennsylvania* (1971)
Jury trials are not constitutionally required in juvenile court hearings.
Thompson v. *Oklahoma* (1988)*
Stanford v. *Kentucky* (1989)*
Minimum age for death penalty is set at 16.
1965
1970
1975
1980
1985
1990

*For discussion of death penalty case decisions, see page 211 of *Juvenile Offenders and Victims: 1999 National Report*.

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youth and took 25 cents from them. McKeiver met with his attorney for only a few minutes before his adjudicatory hearing. At the hearing, his attorney's request for a jury trial was denied by the court. He was subsequently adjudicated and placed on probation.

The State supreme court cited recent decisions of the U.S. Supreme Court that had attempted to include more due process in juvenile court proceedings without eroding the essential benefits of the juvenile court. The State supreme court affirmed the lower court, arguing that of all due process rights, trial by jury is most likely to "destroy the traditional character of juvenile proceedings."

The U.S. Supreme Court found that the due process clause of the 14th amendment did not require jury trials in juvenile court. The impact of the Court's *Gault* and *Winship* decisions was to enhance the accuracy of the juvenile court process in the fact-finding stage. In *McKeiver*, the Court argued that juries are not known to be more accurate than judges in the adjudication stage and could be disruptive to the informal atmosphere of the juvenile court, tending to make it more adversarial.

Breed v. *Jones*
421 U.S. 519, 95 S.Ct. 1779 (1975)

In 1970, Gary Jones, age 17, was charged with armed robbery. Jones appeared in Los Angeles juvenile court and was adjudicated delinquent on the original charge and two other robberies.

At the dispositional hearing, the judge waived jurisdiction over the case to criminal court. Counsel for Jones filed a writ of habeas corpus, arguing that the waiver to criminal court violated the double jeopardy clause of the fifth amendment. The court denied this petition, saying that Jones had not been tried twice because juvenile adjudication is not a "trial" and does not place a youth in jeopardy.

Upon appeal, the U.S. Supreme Court ruled that an adjudication in juvenile court, in which a juvenile is found to have violated a criminal statute, is equivalent to a trial in criminal court. Thus, Jones *had* been placed in double jeopardy. The Court also specified that jeopardy applies at the adjudication hearing when evidence is first presented. Waiver cannot occur after jeopardy attaches.

Oklahoma Publishing Company v. *District Court in and for Oklahoma City*
480 U.S. 308, 97 S.Ct. 1045 (1977)

The *Oklahoma Publishing Company* case involved a court order prohibiting the press from reporting the name and photograph of a youth involved in a juvenile court proceeding. The material in question was obtained legally from a source outside the court. The U.S. Supreme Court found the court order to be an unconstitutional infringement on freedom of the press.

Smith v. *Daily Mail Publishing Company*
443 U.S. 97, 99 S.Ct. 2667 (1979)

The *Daily Mail* case held that State law cannot stop the press from publishing a juvenile's name that it obtained independently of the court. Although the decision did not hold that the press should have access to juvenile court files, it held that if information regarding a juvenile case is lawfully obtained by the media, the first amendment interest in a free press takes precedence over the interests in preserving the anonymity of juvenile defendants.

Schall v. *Martin*
467 U.S. 253, 104 S.Ct. 2403 (1984)

Gregory Martin, age 14, was arrested in 1977 and charged with robbery, assault, and possession of a weapon. He and two other youth allegedly hit a boy on the head with a loaded gun and stole his jacket and sneakers.

Martin was held pending adjudication because the court found there was a "serious risk" that he would commit another crime if released. Martin's attorney filed a habeas corpus action challenging the fundamental fairness of preventive detention. The lower appellate courts reversed the juvenile court's detention order, arguing in part that pretrial detention is essentially punishment because many juveniles detained before trial are released before, or immediately after, adjudication.

The U.S. Supreme Court upheld the constitutionality of the preventive detention statute. The Court stated that preventive detention serves a legitimate State objective in protecting both the juvenile and society from pretrial crime and is not intended to punish the juvenile. The Court found there were enough procedures in place to protect juveniles from wrongful deprivation of liberty. The protections were provided by notice, a statement of the facts and reasons for detention, and a probable cause hearing within a short time. The Court also reasserted the *parens patriae* interests of the State in promoting the welfare of children.

State statutes define who is under the jurisdiction of juvenile court

State statutes define age limits for the original jurisdiction of the juvenile court

In most States, the juvenile court has original jurisdiction over all youth charged with a law violation who were below the age of 18 at the time of the offense, arrest, or referral to court. Since 1975, four States have changed their age criteria: Alabama increased its upper age from 15 to 16 in 1976 and to 17 in 1977; Wyoming reduced its upper age from 18 to 17 in 1993; and New Hampshire and Wisconsin lowered their upper age from 17 to 16 in 1996.

Oldest age for original juvenile court jurisdiction in delinquency matters:

Age	State
15	Connecticut, New York, North Carolina
16	Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, Wisconsin
17	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming

Many States have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters—typically through age 20.

In many States, the juvenile court has original jurisdiction over young adults who committed offenses while juveniles. Many States exclude married or otherwise emancipated juveniles from juvenile court jurisdiction.

Many States have statutory exceptions to basic age criteria. The exceptions, related to the youth's age, alleged offense, and/or prior court history, place certain youth under the original jurisdiction of the criminal court. In some States, a combination of the youth's age, offense, and prior record places the youth under the original jurisdiction of both the juvenile and criminal courts. In these situations where juvenile and criminal courts have concurrent jurisdiction, the prosecutor has the authority to decide which court will initially handle the case.

Statutes in 16 States determine the lowest age of juvenile court delinquency jurisdiction

Youngest age for original juvenile court jurisdiction in delinquency matters:

Age	State
6	North Carolina
7	Maryland, Massachusetts, New York
8	Arizona
10	Arkansas, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin

In most States, juvenile court authority over a youth may extend beyond the upper age of original jurisdiction

Through extended jurisdiction mechanisms, legislatures enable the court to provide sanctions and services for a duration of time that is in the best interests of the juvenile and the public, even for older juveniles who have reached the age at which original juvenile court jurisdiction ends.

Oldest age over which the juvenile court may retain jurisdiction for disposition purposes in delinquency matters:

Age	State
17	Arizona*, North Carolina
18	Alaska, Iowa, Kentucky, Nebraska, Oklahoma, Tennessee
19	Mississippi, North Dakota
20	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming
22	Kansas
24	California, Montana, Oregon, Wisconsin
**	Colorado, Hawaii, New Jersey

*Arizona statute extends jurisdiction through age 20, but a 1979 State Supreme Court decision held that juvenile court jurisdiction terminates at age 18.

**Until the full term of the disposition order.

Note: Extended jurisdiction may be restricted to certain offenses or juveniles.

In some States, the juvenile court may impose adult correctional sanctions on certain adjudicated delinquents that extend the term of confinement well beyond the upper age of juvenile jurisdiction. Such sentencing options are included in the set of dispositional options known as "blended sentencing."

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The juvenile justice system differs from the criminal justice system, but there is common ground

The juvenile justice system grew out of the criminal justice system

After working within the criminal justice system, designers of the juvenile justice system retained many of the components of the criminal justice system as they constructed a new process to respond to delinquent youth. An understanding of what was retained and what was changed helps to make clear the basic differences between the two systems as they exist today.

During its nearly 100-year history, the juvenile justice system in the U.S. has seen fundamental changes in certain aspects of process and philosophy. Recently, there has been some discussion about the possibility of essentially merging the juvenile and criminal systems. An understanding of similarities and differences between the two systems is valuable in assessing the implications of the proposed changes.

Although the juvenile and criminal justice systems are more alike in some jurisdictions than in others, generalizations can be made about the distinctions between the two systems and about their common ground

Juvenile justice system	Common ground	Criminal justice system
Operating Assumptions		
■ Youth behavior is malleable. ■ Rehabilitation is usually a viable goal. ■ Youth are in families and not independent.	■ Community protection is a primary goal. ■ Law violators must be held accountable. ■ Constitutional rights apply.	■ Sanctions should be proportional to the offense. ■ General deterrence works. ■ Rehabilitation is not a primary goal.
Prevention		
■ Many specific delinquency prevention activities (e.g., school, church, recreation) are used. ■ Prevention is intended to change individual behavior and is often focused on reducing risk factors and increasing protective factors in the individual, family, and community.	■ Educational approaches are taken to specific behaviors (drunk driving, drug use).	■ Prevention activities are generalized and are aimed at deterrence (e.g., Crime Watch).
Law Enforcement		
■ Specialized "juvenile" units are used. ■ Some additional behaviors are prohibited (truancy, running away, curfew violations). ■ Some limitations are placed on public access to information. ■ A significant number of youth are diverted away from the juvenile justice system, often into alternative programs.	■ Jurisdiction involves the full range of criminal behavior. ■ Constitutional and procedural safeguards exist. ■ Both reactive and proactive approaches (targeted at offense types, neighborhoods, etc.) are used. ■ Community policing strategies are employed.	■ Open public access to all information is required. ■ Law enforcement exercises discretion to divert offenders out of the criminal justice system.

Juvenile justice system	Common ground	Criminal justice system
Intake—Prosecution		
■ In many instances, juvenile court intake, not the prosecutor, decides what cases to file. ■ The decision to file a petition for court action is based on both social and legal factors. ■ A significant portion of cases are diverted from formal case processing. ■ Intake or the prosecutor diverts cases from formal processing to services operated by the juvenile court, prosecutor's office, or outside agencies.	■ Probable cause must be established. ■ The prosecutor acts on behalf of the State.	■ Plea bargaining is common. ■ The prosecution decision is based largely on legal facts. ■ Prosecution is valuable in building history for subsequent offenses. ■ Prosecution exercises discretion to withhold charges or divert offenders out of the criminal justice system.
Detention—Jail/lockup		
■ Juveniles may be detained for their own protection or the community's protection. ■ Juveniles may not be confined with adults unless there is "sight and sound separation."	■ Accused offenders may be held in custody to ensure their appearance in court. ■ Detention alternatives of home or electronic detention are used.	■ Accused individuals have the right to apply for bond/bail release.
Adjudication—Conviction		
■ Juvenile court proceedings are "quasi-civil" (not criminal) and may be confidential. ■ If guilt is established, the youth is adjudicated delinquent regardless of offense. ■ Right to jury trial is not afforded in all States.	■ Standard of "proof beyond a reasonable doubt" is required. ■ Rights to be represented by an attorney, to confront witnesses, and to remain silent are afforded. ■ Appeals to a higher court are allowed. ■ Experimentation with specialized courts (i.e., drug courts, gun courts) is under way.	■ Defendants have a constitutional right to a jury trial. ■ Guilt must be established on individual offenses charged for conviction. ■ All proceedings are open.

Juvenile justice system	Common ground	Criminal justice system
Disposition—Sentencing		
■ Disposition decisions are based on individual and social factors, offense severity, and youth's offense history. ■ Dispositional philosophy includes a significant rehabilitation component. ■ Many dispositional alternatives are operated by the juvenile court. ■ Dispositions cover a wide range of community-based and residential services. ■ Disposition orders may be directed to people other than the offender (e.g., parents). ■ Disposition may be indeterminate, based on progress demonstrated by the youth.	■ Decisions are influenced by current offense, offending history, and social factors. ■ Decisions hold offenders accountable. ■ Decisions may give consideration to victims (e.g., restitution and "no contact" orders). ■ Decisions may not be cruel or unusual.	■ Sentencing decisions are bound primarily by the severity of the current offense and by the offender's criminal history. ■ Sentencing philosophy is based largely on proportionality and punishment. ■ Sentence is often determinate, based on offense.
Aftercare—Parole		
■ Function combines surveillance and reintegration activities (e.g., family, school, work).	■ The behavior of individuals released from correctional settings is monitored. ■ Violation of conditions can result in reincarceration.	■ Function is primarily surveillance and reporting to monitor illicit behavior.

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All States allow juveniles to be tried as adults in criminal court under certain circumstances

Transferring juveniles to criminal court is not a new phenomenon

In some States, provisions that enabled transfer of certain juveniles to criminal court were in place before the 1920's. Other States have permitted transfers since at least the 1940's. For many years, all States have had at least one provision for trying certain youth of juvenile age as adults in criminal court. Such provisions are typically limited by age and offense criteria. Transfer mechanisms vary regarding where the responsibility for transfer decisionmaking lies.

Transfer provisions fall into three general categories:

Judicial waiver: The juvenile court judge has the authority to waive juvenile court jurisdiction and transfer the case to criminal court. States may use terms other than judicial waiver. Some call the process *certification*, *remand*, or *bind over* for criminal prosecution. Others *transfer* or *decline* rather than waive jurisdiction.

Concurrent jurisdiction: Original jurisdiction for certain cases is shared by both criminal and juvenile courts, and the prosecutor has discretion to file such cases in either court. Transfer under concurrent jurisdiction provisions is also known as *prosecutorial waiver*, *prosecutor discretion*, or *direct file*.

Statutory exclusion: State statute excludes certain juvenile offenders from juvenile court jurisdiction. Under statutory exclusion provisions, cases originate in criminal rather than juvenile court. Statutory exclusion is also known as *legislative exclusion*.

Most States have a combination of transfer provisions

	Judicial waiver			Concurrent jurisdiction	Statutory exclusion	Reverse waiver	Once an adult/ always an adult
	Discretionary	Presumptive	Mandatory				
Total number of States:	46	15	14	15	28	23	31
Alabama	■				■		■
Alaska	■	■			■		
Arizona	■	■		■	■	■	■
Arkansas	■			■		■	
California	■	■					■
Colorado	■	■		■		■	
Connecticut			■			■	
Delaware	■		■		■	■	■
Dist. of Columbia	■	■		■			■
Florida	■			■	■		■
Georgia	■		■	■	■	■	
Hawaii	■						■
Idaho	■				■		■
Illinois	■	■	■		■		
Indiana	■		■		■		■
Iowa	■				■	■	■
Kansas	■	■					■
Kentucky	■		■			■	
Louisiana	■		■	■	■		
Maine	■						■
Maryland	■				■	■	
Massachusetts				■	■		
Michigan	■			■			■
Minnesota	■	■			■		■
Mississippi	■				■	■	■
Missouri	■						■
Montana	■			■	■		
Nebraska				■		■	
Nevada	■	■			■	■	■
New Hampshire	■	■					■
New Jersey	■	■					
New Mexico					■		
New York					■	■	
North Carolina	■		■				
North Dakota	■	■	■				■
Ohio	■		■				■
Oklahoma	■			■	■	■	■
Oregon	■				■	■	■
Pennsylvania	■	■			■	■	■
Rhode Island	■	■	■				■
South Carolina	■		■		■	■	
South Dakota	■				■	■	■
Tennessee	■					■	■
Texas	■						■
Utah	■	■			■		■
Vermont	■			■	■	■	
Virginia	■		■	■		■	■
Washington	■				■		■
West Virginia	■		■				
Wisconsin	■				■	■	■
Wyoming	■			■		■	

■ In States with a combination of transfer mechanisms, the exclusion, mandatory waiver, or concurrent jurisdiction provisions generally target the oldest juveniles and/or those charged with the most serious offenses, while those charged with relatively less serious offenses and/or younger juveniles may be eligible for discretionary waiver.

Source: Authors' adaptation of Torbet and Szymanski's *State legislative responses to violent juvenile crime: 1996–97 update*.

14 BEST COPY AVAILABLE

Many States have changed the boundaries of juvenile court jurisdiction

Traditionally, discretionary judicial waiver was the transfer mechanism on which most States relied. Beginning in the 1970's and continuing through the present, however, State legislatures have increasingly moved juvenile offenders into criminal court based on age and/or offense seriousness, without the case-specific consideration offered by the discretionary juvenile court judicial waiver process.

State transfer provisions changed extensively in the 1990's. From 1992 through 1997, all but six States enacted or expanded transfer provisions. An increasing number of State legislatures have enacted mandatory waiver or exclusion statutes. Less common, then and now, are concurrent jurisdiction provisions.

In most States, juveniles convicted in criminal court cannot be tried in juvenile court for subsequent offenses

In 31 States, juveniles who have been tried as adults must be prosecuted in criminal court for any subsequent offenses. Nearly all of these "once an adult/always an adult" provisions require that the youth must have been convicted of the offenses that triggered the initial criminal prosecution.

Judicial waiver is the most common transfer provision

In all States except Nebraska, New Mexico, and New York, juvenile court judges may waive jurisdiction over certain cases and transfer them to criminal court. Such action is usually in response to a request by the prosecutor; in several States, however, juveniles or their parents may request judicial waiver. In most States, statutes limit waiver by age and offense.

Waiver provisions vary in terms of the degree of decisionmaking flexibility allowed. Under some waiver provisions, the decision is entirely *discretionary*. Under others, there is a rebuttable *presumption* in favor of waiver. Under others, waiver is *mandatory* once the juvenile court judge determines that certain statutory criteria have been met. Mandatory waiver provisions are distinguished from statutory exclusion provisions in that the case originates in juvenile rather than criminal court.

Statutes establish waiver criteria other than age and offense

In some States, waiver provisions target youth charged with offenses involving firearms or other weapons. Most State statutes also limit judicial waiver to juveniles who are "no longer amenable to treatment." The specific factors that determine lack of amenability vary, but typically include the juvenile's offense history and previous dispositional outcomes. Such amenability criteria are generally not included in statutory exclusion or concurrent jurisdiction provisions.

Many statutes instruct juvenile courts to consider other factors when making waiver decisions, such as the availability of dispositional alternatives for treating the juvenile, the time available for sanctions, public safety, and the best interests of the child. The waiver process must also adhere to certain constitutional principles of fairness (see Supreme Court decisions earlier in this Bulletin).

In most States, juvenile court judges can waive juvenile court jurisdiction over certain cases and transfer them to criminal court

State	Minimum age for judicial waiver	Judicial waiver offense and minimum age criteria, 1997							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alabama	14	14							
Alaska	NS	NS				NS			
Arizona	NS		NS						
Arkansas	14		14	14	14	14			14
California	14	16	16		14	14	14	14	
Colorado	12		12		12	12			
Connecticut	14		14	14	13				
Delaware	NS	NS	15[a]		NS	NS	16[b]	16[b]	
Dist. of Columbia	NS	15	15		15	15	15		NS
Florida	14	14							
Georgia	13	15		13	14[c]	14[c]	15[b]		
Hawaii	NS		14		NS	NS			
Idaho	NS	14	NS		NS	NS	NS	NS	
Illinois	13	13	15						
Indiana	NS	14	NS[b]		10			16	
Iowa	14	14	15						
Kansas	10	10	14			14		14	
Kentucky	14		14	14					
Louisiana	14				14	14			
Maine	NS		NS		NS				
Maryland	NS	15		NS					
Michigan	14	13							
Minnesota	14		14						
Mississippi	13	13							
Missouri	12		12						
Montana	NS	NS							
Nevada	14	14	14			14			
New Hampshire	13		15		13	13		15	
New Jersey	14	14[b]			14	14	14	14	14
North Carolina	13		13	13					
North Dakota	14	16	14[b]		14	14		14	
Ohio	14		14		13	14	16		
Oklahoma	NS		NS						
Oregon	NS		15		NS	NS	15		
Pennsylvania	14		14		15	15			
Rhode Island	NS		16	NS	17	17			
South Carolina	NS	16	14		14	NS		14	14
South Dakota	NS		NS						
Tennessee	NS	16			NS	NS			
Texas	14		14	14				14	
Utah	14		14			16	16		16
Vermont	10				10	10	10		
Virginia	14		14		14	14			
Washington	NS	NS							
West Virginia	NS		N		NS	NS	NS[c]	NS[c]	
Wisconsin	14	15	14		14	14	14	14	
Wyoming	13	13							

Examples: Alabama allows waiver for any delinquency (criminal) offense involving a juvenile age 14 or older. Arizona allows waiver for any juvenile charged with a felony. New Jersey allows waiver for juveniles age 14 or older who are charged with murder or certain person, property, drug, or weapon offenses. In New Jersey, juveniles age 14 or older who have prior adjudications or convictions for certain offenses can be waived regardless of the current offense.

Note: Ages in minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile may be judicially waived to criminal court. "NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

[a]Only if committed while escaping from specified juvenile facilities.
[b]Requires prior adjudication(s) or conviction(s), which may be required to have been for the same or a more serious offense type.
[c]Only if committed while in custody.

Sources: Authors' adaptation of Griffin et al.'s *Trying juveniles as adults in criminal court: An analysis of State transfer provisions*.

Few States allow prosecutorial discretion, but many juveniles are tried as adults in this way

As of the end of the 1997 legislative session, 15 States had concurrent jurisdiction provisions, which gave both juvenile court and criminal court original jurisdiction in certain cases. Thus, prosecutors have discretion to file such cases in either court.

State appellate courts have taken the view that prosecutor discretion is equivalent to the routine charging decisions made in criminal cases. Thus, prosecutorial transfer is considered an "executive function," which is not subject to judicial review and is not required to meet the due process standards established in *Kent*. Some States, however, have written prosecutorial transfer guidelines.

Concurrent jurisdiction is typically limited by age and offense criteria. Often concurrent jurisdiction is limited to cases involving serious, violent, or repeat crimes or offenses involving firearms or other weapons. Juvenile and criminal courts often also share jurisdiction over minor offenses such as traffic, watercraft, or local ordinance violations.

There are no national data at the present time on the number of juvenile cases tried in criminal court under concurrent jurisdiction provisions. Florida alone reports an average of nearly 5,000 such transfers per year.

In States with concurrent jurisdiction, the prosecutor has discretion to file certain cases, generally involving juveniles charged with serious offenses, in either criminal court or juvenile court

State	Minimum age for concurrent jurisdiction	Concurrent jurisdiction offense and minimum age criteria, 1997							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Arizona	14		14						
Arkansas	14		14	14	14	14			14
Colorado	14		14		14	14	14		14
Dist. of Columbia	16				16	16	16		
Florida	NS	16 [a]	16	NS [b]	14	14	14		14
Georgia	NS			NS					
Louisiana	15				15	15	15	15	
Massachusetts	14		14			14			14
Michigan	14		14		14	14	14	14	
Montana	12				12	12	16	16	16
Nebraska	NS	16 [c]	NS						
Oklahoma	15				15	15	15	16	15
Vermont	16	16							
Virginia	14				14	14			
Wyoming	14	17	14						

Examples: In Arizona, prosecutors have discretion to file directly in criminal court those cases involving juveniles age 14 or older charged with certain felonies (defined in State statutes). In Florida, prosecutors may "direct file" cases involving juveniles age 16 or older charged with a misdemeanor (if they have a prior adjudication) or a felony offense, as well as those age 14 or older charged with murder or certain person, property, or weapon offenses; no minimum age is specified for cases in which a grand jury indicts a juvenile for a capital offense.

Note: Ages in minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile may be filed directly in criminal court. "NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

[a]Applies to misdemeanors and requires prior adjudication(s), which may be required to have been for the same or a more serious offense type.

[b]Requires grand jury indictment.

[c]Applies to misdemeanors.

Source: Authors' adaptation of Griffin et al.'s *Trying juveniles as adults in criminal court: An analysis of State transfer provisions*.

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Statutory exclusion accounts for the largest number of juveniles tried as adults in criminal court

Legislatures "transfer" large numbers of young offenders to criminal court by enacting statutes that exclude certain cases from juvenile court jurisdiction. As of the end of the 1997 legislative session, 28 States had statutory exclusions. Although not typically thought of as transfers, large numbers of youth under age 18 are tried as adults in the 13 States where the upper age of juvenile court jurisdiction is 15 or 16. If the 1.8 million 16- and 17-year-olds in these 13 States are referred to criminal court at the same rate that 16- and 17-year-olds are referred to juvenile court in other States, then as many as 218,000 cases involving youth under the age of 18 could have faced trial in criminal court in 1996 because the offenders were defined as adults under State laws.

Many States exclude certain serious offenses from juvenile court jurisdiction. State laws typically also set age limits for excluded offenses. The offenses most often excluded are capital crimes and murders, and other serious offenses against persons. Some States exclude juveniles charged with felonies if they have prior felony adjudications or convictions. Minor offenses, such as traffic, watercraft, fish, or game violations, are often excluded from juvenile court jurisdiction in States where they are not covered by concurrent jurisdiction provisions.

Criminal courts may transfer cases to juvenile court or order juvenile sanctions

Of the 35 States with statutory exclusion or concurrent jurisdiction provisions, 20 also have provisions for transferring "excluded" or "direct filed" cases from criminal court to juvenile court under certain circumstances. This procedure is sometimes referred to as "reverse" waiver or transfer. In some States, juveniles tried as adults in criminal court may be transferred to juvenile court for disposition. Some States allow juveniles tried as adults in criminal court to receive dispositions involving either criminal or juvenile court sanctions, under what have come to be known as "blended sentencing" provisions.

In most States, no minimum age is specified in at least one judicial waiver, concurrent jurisdiction, or statutory exclusion provision for transferring juveniles to criminal court

Minimum transfer age indicated in section(s) of juvenile code specifying transfer provisions, 1997

No minimum age		10	12	13	14	15
Alaska	Nevada*	Kansas	Colorado	Illinois	Alabama	New Mexico
Arizona	Oklahoma*	Vermont	Missouri	Mississippi	Arkansas	
Delaware	Oregon*		Montana	New Hampshire	California	
Dist. of Columbia	Pennsylvania			New York	Connecticut	
Florida	Rhode Island			North Carolina	Iowa	
Georgia*	South Carolina			Wyoming	Kentucky	
Hawaii	South Dakota				Louisiana	
Idaho*	Tennessee				Massachusetts	
Indiana	Washington*				Michigan	
Maine	West Virginia				Minnesota	
Maryland	Wisconsin				New Jersey	
Nebraska					North Dakota	
					Ohio	
					Texas	
					Utah	
					Virginia	

*Other sections of State statute specify an age below which children cannot be tried in criminal court. This minimum age for criminal responsibility is 14 in Idaho, 12 in Georgia, 8 in Nevada and Washington, and 7 in Oklahoma. In Washington, 8- to 12-year-olds are presumed to be incapable of committing a crime. In Oklahoma, in cases involving 7- to 14-year-olds, the State must prove that at the time of the act, the child knew it was wrong.

Source: Authors' adaptation of Griffin et al.'s *Trying juveniles as adults in criminal court: An analysis of State transfer provisions*.

In States with statutory exclusion provisions, certain cases involving juveniles originate in criminal court rather than juvenile court

State	Minimum age for statutory exclusion	Statutory exclusion offense and minimum age criteria, 1997							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alabama	16		16	16				16	
Alaska	16					16	16		
Arizona	15		15[d]		15	15			
Delaware	15		15						
Florida	NS	NS[a]				NS			
Georgia	13				13	13			
Idaho	14				14	14	14	14	
Illinois	13		15[b]		13	15		15	15
Indiana	16		16		16	16		16	16
Iowa	16		16					16	16
Louisiana	15				15	15			
Maryland	14			14	16	16			16
Massachusetts	14				14				
Minnesota	16				16				
Mississippi	13		13	13					
Montana	17				17	17	17	17	17
Nevada	NS	NS[a]			NS	16[a]			
New Mexico	15				15[c]				
New York	13				13	14	14		
Oklahoma	13				13				
Oregon	15				15	15			
Pennsylvania	NS				NS	15			
South Carolina	16		16						
South Dakota	16		16						
Utah	16		16[d]		16				
Vermont	14				14	14	14		
Washington	16				16	16	16		
Wisconsin	NS				10	NS[e]			

Examples: In Delaware, juveniles age 15 or older charged with certain felonies must be tried as adults. In Arizona, juveniles age 15 or older must be tried as adults if they are charged with murder or certain person offenses or they have prior felony adjudications and are charged with a felony.

Note: Ages in minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile may be excluded from juvenile court. "NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

[a]Requires prior adjudication(s) or conviction(s), which may be required to have been for the same or a more serious offense type.
[b]Only escape or bail violation while subject to prosecution in criminal court.
[c]Requires grand jury indictment.
[d]Requires prior commitment in a secure facility.
[e]Only if charged while confined or on probation or parole.

Sources: Authors' adaptation of Griffin et al.'s *Trying juveniles as adults in criminal court: An analysis of State transfer provisions*

New laws have had a dramatic impact on sentencing for serious or violent juvenile offenders

A trend away from traditional juvenile dispositions is emerging

Juvenile court dispositions were traditionally based on the offender's individual characteristics and situation. Dispositions were frequently indeterminate and generally had rehabilitation as a primary goal. As many States have shifted the purpose of juvenile court away from rehabilitation and toward punishment, accountability, and public safety, the emerging trend is toward dispositions based more on the offense than the offender. Offense-based dispositions tend to be determinate and proportional to the offense; retribution and deterrence replace rehabilitation as the primary goal.

Many State legislatures have changed disposition and sentencing options

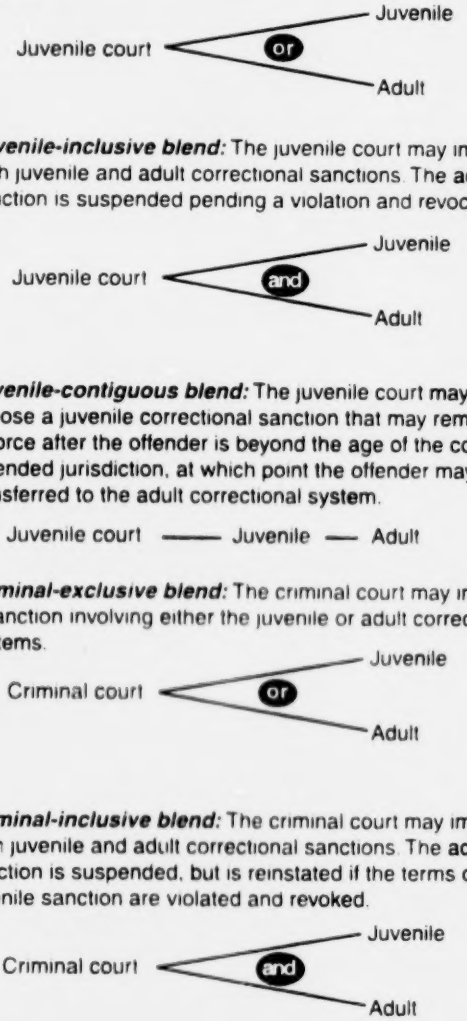
From 1992 through 1997, statutes requiring mandatory minimum periods of incarceration for certain violent or serious offenders were added or modified in 16 States.

States have also raised the maximum age of the juvenile court's continuing jurisdiction over juvenile offenders. Such laws allow juvenile courts to order dispositions that extend beyond the upper age of original jurisdiction, most often to age 21. From 1992 through 1997, 17 States extended their age limit for delinquency dispositions.

Perhaps the most dramatic change will result from "blended sentences." Blended sentencing statutes, which allow courts to impose juvenile and/or adult correctional sanctions on certain young offenders, were in place in 20 States at the end of 1997.

Blended sentencing options create a "middle ground" between traditional juvenile sanctions and adult sanctions

Blended sentencing option	State
Juvenile-exclusive blend: The juvenile court may impose a sanction involving either the juvenile or adult correctional systems.	New Mexico
Juvenile-inclusive blend: The juvenile court may impose both juvenile and adult correctional sanctions. The adult sanction is suspended pending a violation and revocation.	Connecticut Kansas Minnesota Montana
Juvenile-contiguous blend: The juvenile court may impose a juvenile correctional sanction that may remain in force after the offender is beyond the age of the court's extended jurisdiction, at which point the offender may be transferred to the adult correctional system.	Colorado[1] Massachusetts Rhode Island South Carolina Texas
Criminal-exclusive blend: The criminal court may impose a sanction involving either the juvenile or adult correctional systems.	California Colorado[2] Florida Idaho Michigan Oklahoma Virginia West Virginia
Criminal-inclusive blend: The criminal court may impose both juvenile and adult correctional sanctions. The adult sanction is suspended, but is reinstated if the terms of the juvenile sanction are violated and revoked.	Arkansas Iowa Missouri Virginia[3]



Note: Blends apply to a subset of juveniles specified by State statute.

[1]Applies to those designated as "aggravated juvenile offenders."
[2]Applies to those designated as "youthful offenders."
[3]Applies to those designated as "violent juvenile felony offenders."

Source: Authors' adaptation of Torbet and Szymanski's *State legislative responses to violent juvenile crime: 1996–97 update*

U.S. Department of Justice
Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention

Washington, DC 20531

Official Business
Penalty for Private Use $300

OJJDP Bulletin NCJ 178995

Sources

Information for this Bulletin was taken from chapter 4 of *Juvenile Offenders and Victims: 1999 National Report*. For a full listing of sources for this chapter, see page 109 of the *National Report*.

Resources

Answers to frequently asked questions about juvenile justice statistics as well as periodic updates of data presented in *Juvenile Offenders and Victims: 1999 National Report* are available on the Internet in the OJJDP Statistical Briefing Book, which can be accessed through the OJJDP home page at www.ojjdp.ncjrs.org through the JJ Facts & Figures prompt.

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Acknowledgments

Juvenile Offenders and Victims: 1999 National Report, from which this Bulletin is drawn, was prepared by the National Center for Juvenile Justice (NCJJ). The authors are Howard N. Snyder and Melissa Sickmund. The *National Report* benefited from the assistance of many individuals in addition to the authors, including staff at NCJJ, the Office of Juvenile Justice and Delinquency Prevention, and the Juvenile Justice Clearinghouse.

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